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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>2003P01918WOUS</b>			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____ eFiled  Signature _____  Typed or printed name _____	Application Number <b>10/582,923</b>	Filed <b>10/10/2008</b>			
	First Named Inventor <b>Christoph Becke et al.</b>				
	Art Unit <b>3637</b>	Examiner <b>Daniel J. Rohrhoff</b>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record.      <b>62,246</b> Registration number _____</p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></td><td style="width: 50%; vertical-align: top; padding-bottom: 10px; border-left: 1px solid black;"><p style="text-align: right; margin-right: 50px;"><b>/Andre Pallapies/</b></p><p style="text-align: right; margin-right: 50px;">Signature</p><p style="text-align: right; margin-right: 50px;"><b>Andre Pallapies</b></p><p style="text-align: right; margin-right: 50px;">Typed or printed name</p><p style="text-align: right; margin-right: 50px;"><b>252-672-7927</b></p><p style="text-align: right; margin-right: 50px;">Telephone number</p><p style="text-align: right; margin-right: 50px;"><b>October 14, 2011</b></p><p style="text-align: right; margin-right: 50px;">Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record.      <b>62,246</b> Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>	<p style="text-align: right; margin-right: 50px;"><b>/Andre Pallapies/</b></p> <p style="text-align: right; margin-right: 50px;">Signature</p> <p style="text-align: right; margin-right: 50px;"><b>Andre Pallapies</b></p> <p style="text-align: right; margin-right: 50px;">Typed or printed name</p> <p style="text-align: right; margin-right: 50px;"><b>252-672-7927</b></p> <p style="text-align: right; margin-right: 50px;">Telephone number</p> <p style="text-align: right; margin-right: 50px;"><b>October 14, 2011</b></p> <p style="text-align: right; margin-right: 50px;">Date</p>
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<input type="checkbox"/> *Total of _____ forms are submitted.					

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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**STATEMENT OF ARGUMENTS  
FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

Appellants submit this Statement of Argument in support of its Pre-Appeal Brief Request for Review and Notice of Appeal filed herewith.

**Overview**

Claims 11-30 are pending in this application with claims 11, 21 and 29 being independent.

The September 2, 2011, Final Office Action rejects claims 11-30 as being unpatentable over various combinations of references. The rejections should be withdrawn for at least the following reasons.

**A. Claims 11-13, 15, 21-23 and 28 (Caldwell)**

The Office Action rejected claims 11-13, 15, 21-23 and 28 under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent Application Publication No. 2003/0122455 to Caldwell. Applicants respectfully traverse the rejection.

Claims 11 and 21 include the feature of a supporting element of the chilled goods support acting as a thermal buffer to which the liquid crystal temperature display unit is fixed in a planar manner.

In contrast, Caldwell does not disclose, or even suggest, a supporting element of a chilled goods support acting as a thermal buffer for a temperature display unit. Applicants could not find any reference in Caldwell to thermal buffers for a temperature display. The Office Action states that frame 22 of Caldwell acts as a thermal buffer, but relies on the teachings of the present Application to argue that frame 22 of Caldwell acts as a thermal buffer (Office Action, paragraph 32). Applicants submit that it is impermissible hindsight reconstruction for an Office Action to rely on the teachings of the Application being examined as the impetus for determining that a particular feature of a reference is analogous to a claimed feature.

Claims 12, 13, 15, 22, 23 and 28 depend from either claim 11 or claim 21.

In view of the foregoing, Applicants respectfully submit that Caldwell does not disclose each and every feature of claims 11-13, 15, 21-23 and 28 and, therefore, rejection under 35 USC §102(b) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

37 CFR 1.104(c)(2) states that the pertinence of each reference, if not apparent, must be clearly explained. It is not apparent how Caldwell discloses a supporting element of a chilled goods support acting as a thermal buffer for a temperature display unit. And, the Office Action does not clearly explain how Caldwell discloses a supporting element of a chilled goods support acting as a thermal buffer for a temperature display unit. As a result, Applicants submit that the Office Action does not comply with 37 CFR 1.104(c)(2).

The Office Action rejected claims 14 and 16 under 35 U.S.C. §103(a) as being unpatentable over Caldwell. Applicants respectfully traverse the rejection.

As discussed above, Caldwell does not disclose, or even suggest, a supporting element of a chilled goods support acting as a thermal buffer for a temperature display unit. The Office Action asserts that Caldwell discloses a supporting element of a chilled goods support acting as a thermal buffer for a temperature display unit, but does not allege that Caldwell suggests such a feature. This obviousness rejection only asserts that Caldwell suggests the features of claims 14 and 16 that are not in claim 11.

In view of the foregoing, Applicants respectfully submit that Caldwell does not teach or suggest the features of claims 14 and 16 and, therefore, rejection under 35 USC §103(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

**B. Claims 17 and 24 (Caldwell and Hammarth)**

The Office Action rejected claims 17 and 24 under 35 U.S.C. §103(a) as being unpatentable over Caldwell in view of U.S. Patent Application Publication No.

2003/0086474 to Hammarth et al. Applicants respectfully traverse the rejection.

Hammarth does not remedy the deficiencies of Caldwell. As explained above, Caldwell does not teach or suggest the feature of a supporting element of a chilled goods support acting as a thermal buffer for a temperature display unit.

Further, claims 17 and 24 include the feature of the temperature display being divided into a plurality of discrete elements. In contrast, the temperature indicator 20 of Hammarth is one element (Fig. 1). The fact that there are multiple liquid crystals 10, 12, 14, 16, 18 does not teach or suggest discrete elements (as shown in Fig. 2 of the Application).

In view of the foregoing, Applicants respectfully submit that the combination of Caldwell and Hammarth does not teach or suggest the features of claims 17 and 24 and, therefore, rejection under 35 USC §103(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

**C. Claims 18-20, 26 and 27 (Caldwell and Paron)**

The Office Action rejected claims 18-20, 26 and 27 under 35 U.S.C. §103(a) as being unpatentable over Caldwell in view of U.S. Patent No. 5,738,442 to Paron et al. Applicants respectfully traverse the rejection.

Paron does not remedy the deficiencies of Caldwell. As explained above, Caldwell does not teach or suggest the feature of a supporting element of a chilled goods support acting as a thermal buffer for a temperature display unit.

In view of the foregoing, Applicants respectfully submit that the combination of Caldwell and Paron does not teach or suggest the features of claims 18-20, 26 and 27 and, therefore, rejection under 35 USC §103(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

**D. Claims 25, 29 and 30 (Caldwell, Hammarth and Maritan)**

The Office Action rejected claims 25, 29 and 30 under 35 U.S.C. §103(a) as being

unpatentable over Caldwell in view of Hammarth and U.S. Patent Application Publication No. 2003/0222044 to Maritan et al. Applicants respectfully traverse the rejection.

Maritan does not remedy the deficiencies of Caldwell and Hammarth. Claim 25 depends from claim 21.

Claim 29 includes the feature of a supporting element of a chilled goods support acting as a thermal buffer for a temperature display unit.

As explained above, the combination of Caldwell and Hammarth does not teach or suggest the feature of a supporting element of a chilled goods support acting as a thermal buffer for a temperature display unit.

In view of the foregoing, Applicants respectfully submit that the combination of Caldwell, Hammarth and Maritan does not teach or suggest the features of claims 25, 29 and 30 and, therefore, rejection under 35 USC §103(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

### **CONCLUSION**

In view of the above, Appellants respectfully request allowance of claims 11-30.